HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 3484 (S/S) year 2001

Darshan Singh Rawat

Versus

State of Uttaranchal and Another

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 31.10.2003

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ petition No. 3484 (S/S) 2001

Darshan Singh Rawat ---- Petitioner

Vs.

State of Uttarancha and

Another. ---- Respondents.

Mr. Sandeep Tandon, counsel for the petitioner.
Learned Standing Counsel for the respondents.

Dated: October 31, 2003:

Hon'ble Rajesh Tandon, J.

Heard Sri Sandeep Tandon, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner has filed the present petition challenging the order dated 10th July 2001 passed by the respondent No. 2 by which the petitioner has been transferred from Govt. High School Bhamrai Khal to Govt. High School Mahadev Chatti.

Since the transfer order was passed in a routine manner and in the public interest, no interference is required under Aritcle 226 of the Constitution of India.

As will appear from the transfer order dated 10th July 2001 that it is a routine transfer and is fully covered by the judgment of the Apex Court reported in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others AIR 1991 Supreme Court, page 532 that the transfer orders passed in public interest and for administrative reasons are not amenable to interference. The observations of the Apex Court to that effect are quoted below:-

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or

orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day-to-day transfer order issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conductive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

Similar view has been taken by the Apex Court in (2001) S.C.C. page 508 State Bank of India Vs. Anjan Sanyal & others which is quoted below:-

"An order of transfer of an employee is a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the court finds that either the order is mala fide or that the service rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order."

A perusal of the transfer order shows that the transfer order was passed on 10th July, 2001 and therefore the same can not be treated as a mid term transfer. It is a routine transfer order. As will appear from the transfer order that the same has been passed on account of administrative exigency as well as in public interest therefore, the legal rights of the petitioner has been violated.

I find no infirmity in the order of transfer of the petitioner. Transfer order of the petitioner having been passed in the public interest, no interference under Article 226 of the Constitution of India can be made.

Accordingly, the writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

Oct. 31, 2003

NCM: